

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

CIVIL ACTION

No. 12-0834

**ANSWER OF DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION
AS RECEIVER FOR PROGRESS BANK OF FLORIDA
TO CROSS CLAIM OF DEFENDANT RICHARD DEVASTEY**

Defendant Federal Deposit Insurance Corporation (“FDIC”) as Receiver for Progress Bank of Florida (“FDIC-R”), by its counsel, hereby answers the Cross Claim of Defendant Richard Devastey (“Devastey”) as follows:

64. Denied.

First Defense

The Cross Claim fails to state a claim upon which relief can be granted against FDIC-R.

Second Defense

Devastey’s Cross Claim is barred in whole or in part by Devastey’s own consent.

Third Defense

Devastey has failed to mitigate his damages if any.

Fourth Defense

Devastey's Cross Claim is barred in whole or in part by Devastey's own contributory or comparative negligence.

Fifth Defense

Devastey's Cross Claim is barred by his assumption of the risk.

Sixth Defense

Devastey's remedies against the FDIC-R are limited as set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1821(d)(2)(A)(ii), (B) & (E).

WHEREFORE, the FDIC-R requests that judgment be entered in its favor and against Devastey on his Cross Claim.

s/Lisa B. Wershaw
Jeffrey S. Saltz
Lisa B. Wershaw
Attorneys for Defendant FDIC-R

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Dated: January 30, 2013

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2013, I caused the foregoing Answer of Defendant Federal Deposit Insurance Corporation as Receiver for Progress Bank of Florida to Cross Claim of Defendant Richard Devastey to be filed electronically with the Court, where it is available for viewing and downloading from the Court's ECF system, that such electronic filing automatically generates a Notice of Electronic Filing constituting service of the filed document on Lee D. Rosenfeld, Esquire, counsel for Plaintiff, Susan J. Wiener, Esquire, counsel for Defendant Devastey, Pauline J. Manos, Esquire, counsel for Defendant City of Philadelphia, and Michael J. Dempsey, Esquire, counsel for Defendant Mango & August, Inc. and that on the same date I caused a paper copy to be served on all other parties to this action by First Class Mail as follows:

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s/ Lisa B. Wershaw
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